

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC-3', NEW DELHI**

**Before SH. N. K. SAINI, ACCOUNTANT MEMBER**

**ITA No.4926/DEL/2014 : Asstt. Year : 2007-08**

Khalsa Montessori Senior Secondary School C/o. M/s. RRA tax India, D-28, South Extension, Part-1 New Delhi AAAAK2826P	Vs	Addl. CIT(A) Range Bulandshahar
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**Assessee by : Sh. Rupesh Gupta, Adv & Sh. Somil Aggarwal, Adv  
Revenue by : Sh. Anil Sharma, Sr. DR**

<b>Date of Hearing : 03.11.2016</b>	<b>Date of Pronouncement : 07.11.2016</b>
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**ORDER**

**Per N. K. Saini, AM:**

This is an appeal filed by the assessee against the order dated 28/3/2014 passed by CIT (A)-Meerut.

2. The main grievance of the assessee in appeal relates to the action of the Ld.CIT (A) in dismissing the appeal in limine, without considering the merits.

3. The facts of the case in brief are that the assessee is running an Educational institution of 12<sup>th</sup> Standard and had been granted registration u/s 12A of the Income-tax Act, 1961(hereinafter referred to as the Act). The assessee furnished the return of income on 30/10/2007 declaring 'Nil' income by claiming the exemption u/s 10(23C) (iii ad) of the Act. Later on, the case was selected for

scrutiny. The A.O framed the assessment at an income of Rs.15,76,570/- by observing that the said amount was applied short for charitable purposes. Being aggrieved the assessee carried the matter to the Ld.CIT(A) who dismissed the appeal ex-parte by observing that the assessee either had not made any compliance to notices issued u/s 250 of the Act or had filed adjournment application. Now, the assessee is in appeal.

4. The Ld. Counsel for the assessee submitted that the Ld.CIT (A) did not provide due and reasonable opportunity of being heard and dismissed the appeal of the assessee in limine without discussing the issues on merit. It was further submitted that the Ld.CIT (A) violated the principles of natural justice while deciding the appeal ex-parte and dismissing the same in limine.

5. In his rival submission, the Ld. DR submitted that various opportunities for hearing were given to the assessee but there was no compliance by the assessee. Therefore, the Ld.CIT (A) was justified in dismissing the appeal of the assessee in limine.

6. I have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that the Ld.CIT(A) simply stated in Para 2 of the impugned order that on various dates notices were issued for hearing but there was no compliance by the assessee. However, no where it was stated that the notice issued was served upon the assessee. In the instant case, it is so it is not clear as to whether the assessee received the notice for hearing or not, therefore, the ex-parte order passed by the Ld.CIT (A) deserves to be set aside. Accordingly, the impugned order is set aside and the case is remanded back to the file of the Ld.CIT(A) to be decided a fresh on

merit in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Court on 07/11/2016)

Sd/-

**(N. K. SAINI)**  
**ACCOUNTANT MEMBER**

**Dated: 07/11/2016**

\*R.Naheed\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**

		Date	<u>Initial</u>	
1.	Draft dictated on	03.11.2016		PS
2.	Draft placed before author	04.11.2016		PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS	07.11.2016		PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk	07.11.2016		PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			

